

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

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John K. Fitzgerald, Reg. No. 38,881

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/836,498  
Applicant : Xiugao Liao  
Filed : April 16, 2004  
Title : HIGH REFRACTIVE INDEX AND OPTICALLY CLEAR  
COPOLY(CARBOSILANE AND SILOXANE) ELASTOMERS  
Art Unit : 1712  
Examiner : Marc S. Zimmer | 10/13/2005 AKELECH1 00000036 10836498  
| 01 FC:2814 65.00 OP  
Docket No.: : STAAR-68373  
Customer No. : 24201

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

TERMINAL DISCLAIMER TO OBVIATE DOUBLE PATENTING REJECTION

UNDER 37 C.F.R. § 1.321

Dear Sir:

Petitioner, STAAR Surgical Company, Inc., a California corporation having a place of business at 1911 Walker Avenue, Monrovia, CA 91016, is the assignee and owner of 100 percent interest in the instant application, Application No. 10/836,498, filed on April 16, 2004, for HIGH REFRACTIVE INDEX AND OPTICALLY CLEAR COPOLY(CARBOSILANE AND SILOXANE) ELASTOMERS, which is a divisional application of 10/308,803, filed December 3, 2002, as recorded at Reel 014777, Frame 0110 on June 25, 2004. The assignment document has been reviewed, and petitioner hereby certifies that, to the best of petitioner's knowledge and belief, title in the instant application, Serial No. 10/836,498, is in petitioner.

Petitioner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, that would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154 to 156 and 173, as presently shortened by any terminal disclaimer of prior application of 10/308,803, filed December 3, 2002, as recorded at Reel 014777, Frame 0110 on June 25, 2004, which is also owned by petitioner. Petitioner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

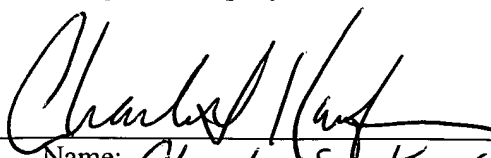
In making the above disclaimer, petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. § 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

STAAR Surgical Company

Date: September 30, 2005

By:   
Name: Charles S. Kautman  
Title: VP, Gen'l Counsel



PTO/SB/17 (12-04v2)

Approved for use through 07/31/2006. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Project of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Effective on 12/08/2004.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

# FEE TRANSMITTAL

## For FY 2005

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 65.00

**Complete if Known**

Application Number	10/826,498
Filing Date	04/16/2004
First Named Inventor	Xiugao Liao
Examiner Name	Marc S. Zimmer
Art Unit	1712
Attorney Docket No.	STAAR-68373

**METHOD OF PAYMENT (check all that apply)**☒ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_☒ Deposit Account Deposit Account Number: 06-2425 Deposit Account Name: FULWIDER PATTON

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below☐ Charge fee(s) indicated below, except for the filing fee☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17☒ Credit any overpayments

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**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	0
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

**2. EXCESS CLAIM FEES****Fee Description**

Each claim over 20 (including Reissues)

Fee (\$)	Small Entity Fee (\$)
50	25

Each independent claim over 3 (including Reissues)

200	100
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Multiple dependent claims

360	180
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Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
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- 20 or HP =	x	=
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HP = highest number of total claims paid for, if greater than 20.

Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
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- 3 or HP =	x	=
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HP = highest number of independent claims paid for, if greater than 3.

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
- 100 =	/ 50 =	(round up to a whole number) x	=	0

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

Fees Paid (\$)

Other (e.g., late filing surcharge): Terminal Disclaimer

\$65.00

**SUBMITTED BY**

Signature

Registration No. 38,881  
(Attorney/Agent)

Telephone 310/824-5555

Name (Print/Type) John K. Fitzgerald

Date 10/5/05

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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